

UNITED STATES DISTRICT COURT
FOR THE
MIDDLE DISTRICT OF PENNSYLVANIA

RONALD MANSFIELD,	:
	:
Plaintiff	:
	:
v.	:
	CIVIL NO. 3:CV-06-1085
	:
DEPUTY McGRADY, <u>ET AL.</u> ,	:
	(Judge Kosik)
Defendants	:

O R D E R

THE BACKGROUND OF THIS ORDER IS AS FOLLOWS:

Plaintiff, Ronald Mansfield, at the time an inmate incarcerated at the State Correctional Institution at Bellefonte, Pennsylvania, filed this civil rights action on May 30, 2006, pursuant to 42 U.S.C. §1983.¹ On August 29, 2006, seven (7) of the eight (8) Defendants named filed a motion to dismiss the complaint. (Doc. 16.) A brief in support of the motion was filed on the same date. To date, Plaintiff has not filed an opposition brief to the motion in accordance with United States District Court, M.D. Pa. L.R. 7.6. Therefore, the motion is presently unopposed.

Generally, a dispositive motion may not be granted merely because it is unopposed. See Anchorage Assoc. v. Virgin Islands Board of Tax Review, 922 F.2d 168, 174 (3d Cir. 1990). However, the Third Circuit has held that consistent with local rules of court, a motion to dismiss may be granted without a merits analysis “if a party fails to comply with the rule after a specific direction

¹ The court notes that Plaintiff maxed out on his sentence and was released from prison in August of 2006. He did provide the court with a forwarding address and Defendants’ did serve their motion to dismiss on Plaintiff at the new address.

to comply from the court.” Stackhouse v. Mazurkiewicz, 951 F.2d 29, 30 (3d Cir. 1991). Plaintiff is therefore advised that he will be afforded additional time to respond to the Defendants’ motion to dismiss as provided in United States District Court, M.D. Pa. L.R. 7.6. However, his failure to respond by the specified date will result in dismissal of the complaint without a merits analysis under the authority of Stackhouse.²

AND NOW, this 3rd day of October 2006, **IT IS HEREBY ORDERED THAT:**

1. In accordance with United States District Court, M.D. Pa. L.R. 7.6, the Plaintiff is directed to file a brief in opposition to the Defendants’ motion to dismiss within ten (10) days from the date of this Order.
2. Failure to file a brief in opposition to the motion will result in the motion being deemed unopposed and an order granting the motion to dismiss without a merits analysis

s/Edwin M. Kosik
United States District Judge

² The court further notes that the remaining Defendant in this action has also filed a motion to dismiss Plaintiff’s complaint. A brief in support of the motion was filed on October 3, 2006. (Doc. 19.) Plaintiff’s brief in opposition to this motion is due on or before October 23, 2006. Plaintiff is hereby on notice that the failure to file a brief in response to this motion on or before October 23, 2006, will result in the motion being deemed unopposed and granted without a merits analysis pursuant to Stackhouse.